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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,899	09/04/2001	Ullrich Wunsche	P01,0281	6028
29177	7590	06/07/2004	EXAMINER	
BELL, BOYD & LLOYD, LLC			PHAN, HANH	
P. O. BOX 1135			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690-1135			2633	8
DATE MAILED: 06/07/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/914,899	WUNSCHE ET AL.
	Examiner	Art Unit
	Hanh Phan	2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 September 2001.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4,6 and 7 is/are rejected.  
 7) Claim(s) 5 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 4.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Masaki (US Patent No. 5,629,792) cited by applicant.

Regarding claims 1 and 6, referring to Figures 4 and 12, Masaki discloses a method for optimizing an amplitude-modulated optical signal, comprising the steps of: generating the amplitude-modulated optical signal in a modulator (i.e., external modulating device 1, Fig. 4) by modulating an optical signal with a digital signal; feeding said amplitude-modulated optical signal to a frequency discriminator (i.e., light electricity converter 7, filter 8, low-pass filter 10, comparator 11, error amplifier 13, Fig. 4) which outputs a spectral distribution signal; feeding the spectral distribution signal to a control device (i.e., initial setting circuit 14, Fig. 4) which is also fed an adjustable reference signal; and generating a control signal which sets an operating point of the modulator by

comparing the adjustable reference signal and the spectral distribution signal (see from 4, lines 36 through col. 9, line 12 and col. 12, lines 29-50).

Regarding claim 2, Masaki teaches further comprising the step of separating (i.e., light branching device 6, Fig. 4) a measuring signal which is fed to the frequency discriminator from the amplitude-modulated optical signal.

Regarding claim 7, Masaki further teaches an adder (5)(Fig. 4) which is fed the control signal and the digital signal, an adder output being fed to a modulation input of the modulator.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaki (US Patent No. 5,629,792) cited by applicant.

Regarding claim 3, it would have been obvious to obtain the steps of determining the spectral distribution signal at a start of a transmission path and setting the reference signal based on properties of the transmission path in order to produce the optimal receiving conditions.

Regarding claim 4, it would have been obvious to obtain the steps of determining the spectral distribution signal at a receiving end and transmitting the spectral

distribution signal or a control signal generated therefrom to the modulator provided at a transmitting end in order to provide performing stable optical transmission.

6. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tajima (US Patent No. 5,726,794) discloses DC bias controller for optical modulator.

Noda (US Patent No. 5,742,268) discloses optical modulation device having bias reset means.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (703)306-5840.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (703)305-4729. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

Hanh Phan

Hanh Phan

05/28/2004